



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2013 REGULAR SESSION

SENATE BILL NO. 50

AS ENACTED

TUESDAY, MARCH 26, 2013

RECEIVED AND FILED
DATE April 8, 2013
4:26pm Called to become
law without Governor's signature
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY L. Haller

1 AN ACT relating to industrial hemp.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔ Section 1. KRS 260.850 is amended to read as follows:

4 As used in KRS 260.850 to 260.869~~[- unless the context requires otherwise]:~~

5 (1) "Agribusiness" has the same meaning as in Section 16 of this Act;

6 (2) "Certified seed" means industrial hemp seed, including but not limited to
 7 Kentucky heritage hemp seed, that has been certified as having no more
 8 tetrahydrocannabinol concentration than that adopted by federal law in the
 9 Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;

10 (3) "Commission" means the Industrial Hemp Commission created by KRS 260.857;

11 (4)~~[(2)]~~ "Grower" means any person licensed to grow industrial hemp by the
 12 commission pursuant to Section 11 of this Act~~["Commissioner" means the~~
 13 ~~Commissioner of the Department of Agriculture, or the Commissioner's designee];~~

14 (5)~~[(3)]~~ — "Department" means the Kentucky Department of Agriculture;

15 (4)~~]~~ "Hemp products" means all products made from industrial hemp, including, but not
 16 limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics,
 17 seed, seed meal and seed oil for consumption, and certified seed for cultivation if
 18 the seeds originate from industrial hemp varieties;

19 (6) (a)~~[(5)]~~ "Industrial hemp" means all parts and varieties of the plant cannabis
 20 sativa, cultivated or possessed by a licensed grower, whether growing or not,
 21 that contain a tetrahydrocannabinol concentration of no more than that
 22 adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801
 23 et seq.

24 (b) "Industrial hemp" as defined and applied in Sections 1 to 14 of this Act is
 25 excluded from the definition of marijuana in KRS 218A.010~~[all parts and~~
 26 ~~varieties of the plant cannabis sativa, cultivated or possessed by a licensed~~
 27 ~~grower, whether growing or not, that contain a tetrahydrocannabinol~~

concentration of one percent (1%) or less by weight, except that the THC concentration limit of one percent (1%) may be exceeded for licensed industrial hemp seed research. Industrial hemp, as defined and applied for the purposes of KRS 260.850 to 260.869, shall be excluded from the definition of marijuana, as defined in KRS 218A.010;

(7) "Kentucky heritage hemp seed" means industrial hemp seed that possesses characteristics of the unique and specialized industrial hemp seed variety that originated in the Commonwealth and has been recognized historically as a signature export of this state;

(8) [(6)] "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed three-tenths of one percent (0.3%) ~~three percent (3%)~~; and

(9) [(7)] "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

➔SECTION 2. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of Sections 1 to 14 of this Act is to assist the Commonwealth in moving to the forefront of industrial hemp production, development, and commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, both nationally and globally and to the greatest extent possible. These purposes shall be accomplished, in part, through:

1 (a) The auspices of the Industrial Hemp Commission created by Section 5 of
 2 this Act;

3 (b) The industrial hemp research program overseen by the commission,
 4 working in conjunction with the staff of the University of Kentucky
 5 Agricultural Experiment Station, along with the University of Louisville,
 6 the various comprehensive universities as defined in KRS 164.001, and
 7 other research partners. This research program shall include the planting,
 8 cultivation, and analysis of industrial hemp demonstration plots by selected
 9 growers that are licensed by the commission pursuant to Section 11 of this
 10 Act; and

11 (c) The pursuit of any federal permits or waivers necessary to allow industrial
 12 hemp to be grown in the Commonwealth.

13 (2) The General Assembly hereby finds and declares that the authority granted in
 14 Sections 1 to 14 of this Act and the purposes accomplished hereby are proper
 15 governmental and public purposes, and that the development of industrial hemp
 16 production and commercial markets for hemp products within the
 17 Commonwealth is important to its economic well-being.

18 ➔Section 3. KRS 260.851 is amended to read as follows:

19 The commission[department] shall promulgate administrative regulations, in accordance
 20 with[the provisions of] KRS Chapter 13A, as necessary to administer the industrial
 21 hemp research program, and to license persons to grow industrial hemp, pursuant to
 22 Sections 1 to 14 of this Act[research on industrial hemp and hemp products]. The
 23 commission shall include as part of its administrative regulations, at a minimum, the
 24 establishment of industrial hemp testing criteria and protocols.

25 ➔Section 4. KRS 260.853 is amended to read as follows:

26 (1) The commission[Department of Agriculture] shall promote the research and
 27 development of industrial hemp, and commercial markets for Kentucky industrial

1 hemp and hemp products, ~~after the selection and establishment of the industrial~~
 2 ~~hemp research program and the Industrial Hemp Commission, and~~ as provided in
 3 this section, to the extent ~~provided~~ that adequate funds are available and are
 4 approved by the commission for these purposes from the industrial hemp program
 5 fund. The commission ~~department~~ shall work cooperatively with selected
 6 Kentucky university or universities' agricultural research programs utilizing the
 7 expertise of the university or universities in the area of agricultural research.

8 (2) ~~[The Council on Postsecondary Education shall select a university or universities~~
 9 ~~where the industrial hemp research program is to be established, after proposals are~~
 10 ~~considered from all interested universities with agriculture departments in~~
 11 ~~Kentucky.~~

12 (3) In addition to its other pursuits, the commission ~~selected institutions' industrial~~
 13 ~~hemp research program~~ shall undertake research of industrial hemp production
 14 through the establishment and oversight of a five (5) year industrial hemp
 15 research program, to be directly managed by the University of Kentucky
 16 Agricultural Experiment Station, to the extent that adequate funds are available
 17 for the program from the industrial hemp program fund. This research program
 18 shall consist primarily of demonstration plots planted and cultivated in ~~this~~ ~~the~~
 19 state by selected growers, which shall be required to be licensed by the
 20 commission pursuant to Section 11 of this Act prior to planting any industrial
 21 hemp.

22 (3) The commission ~~department~~ shall pursue any ~~assist the industrial hemp research~~
 23 ~~program in obtaining the necessary federal~~ permits or waivers from the United
 24 States Drug Enforcement Agency or appropriate federal agency that are necessary
 25 for the advancement of the industrial hemp research program.

26 (4) As part of ~~[In undertaking]~~ the industrial hemp research program ~~the~~ commission
 27 shall, through the University of Kentucky Agricultural Experiment Station and in

collaboration with the University of Louisville, the various comprehensive universities as defined in KRS 164.001, to the greatest extent possible according to the particular area of research expertise of each university, and other research partners~~[university or universities are authorized to]~~:

- (a) Oversee and analyze the growth of~~[grow]~~ industrial hemp by selected and licensed growers, for~~[to conduct]~~ agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of various varieties of industrial hemp that may be suitable for various commercial hemp products~~[, including but not limited to hemp seed, paper, clothing, and oils]~~;
- (b) Conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground variety trials and seed production, and establish a program to recognize certain industrial hemp seed as being Kentucky heritage hemp seed;
- (c) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;
- (d) Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;
- (e) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
- (f) Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and
- (g) Study the feasibility of attracting federal and private funding for the Kentucky industrial hemp research program.

(5) In addition to the research and analysis outlined in subsection (4) of this section,

1 the commission shall:

2 (a) Coordinate with the University of Kentucky Center for Applied Energy

3 Research to study the use of industrial hemp in new energy technologies.

4 This research shall include but not be limited to:

5 1. Evaluation of the use of industrial hemp to generate electricity, and to

6 produce biofuels and other forms of energy resources;

7 2. Growth of industrial hemp on reclaimed mine sites;

8 3. Use of hemp seed oil in the production of fuels; and

9 4. An assessment of the production costs, environmental issues, and

10 costs and benefits involved with the use of industrial hemp for energy;

11 and

12 (b) Coordinate with the Cabinet for Economic Development to promote

13 awareness of the financial incentives that may be available to agribusiness

14 and manufacturing companies that manufacture industrial hemp into hemp

15 products, as provided through the Kentucky Business Investment program

16 pursuant to Subchapter 32 of KRS Chapter 154, in order to diversify the

17 agricultural economy of the Commonwealth, attract new businesses to the

18 state, create new job opportunities for Kentucky residents, and create a

19 commercial market for industrial hemp.

20 ~~(6) [(4)]~~ The research activities outlined~~[authorization — granted]~~ in

21 subsections~~[subsection]~~ (4) and (5)~~[(3)]~~ of this section shall not:

22 (a) Subject the industrial hemp research program~~[or the selected university or~~

23 ~~universities where it is located]~~ to any criminal liability under the controlled

24 substances laws of the Commonwealth. This exemption from criminal liability

25 is a limited exemption that shall be strictly construed and that shall not apply

26 to any activities of the industrial hemp research program~~[or the selected~~

27 ~~university or universities]~~ that are not expressly permitted in the authorization;

1 or[-]

2 (b) [(5) The authorization granted in subsection (3) of this section shall not
3 }Alter, amend, or repeal by implication any provision of the Kentucky Revised
4 Statutes relating to controlled substances.

5 (7)[(6)] The commission[selected university or universities of the industrial hemp
6 research program] shall notify the Department of Kentucky State
7 Police[headquarters of the Department of Kentucky State Police, the local barracks
8 of the Department of Kentucky State Police,] and all[-other] local law enforcement
9 agencies of the duration, size, and location of all industrial hemp demonstration
10 plots.

11 (8)[(7)] The commission[Commissioner and the university or universities] may
12 cooperatively seek funds from both public and private sources to implement the
13 industrial hemp research program[this section]. The funds shall be deposited into
14 the industrial hemp program fund.

15 (9)[(8)] By December 31, 2013,[October 1, 2001,] and annually thereafter, the
16 commission[university or universities] shall report on the status and progress of the
17 industrial hemp research program[-authorized by this section] to the Governor and
18 to the Legislative Research Commission[Commissioner, the Industrial Hemp
19 Commission, and the Interim Joint Committee on Agriculture, and the Interim Joint
20 Committee on Natural Resources and Environment].

21 ➔Section 5. KRS 260.857 is amended to read as follows:

22 (1) The Kentucky Industrial Hemp Commission is created and is attached to the
23 University of Kentucky Agricultural Experiment Station[Department of
24 Agriculture] for administrative purposes.

25 (2) The membership of the commission shall consist of at least the following[seventeen
26 (17)] members[-as follows]:

27 (a)[(1)] The Speaker of the House of Representatives or the Speaker's designee;

- 1 ~~(b)~~~~{(2)}~~ The President of the Senate or the President's designee;
- 2 ~~(c)~~~~{(3)}~~ The chair of the Senate Agriculture Committee;
- 3 ~~(d)~~~~{(4)}~~ The chair of the House Agriculture and Small Business Committee;
- 4 ~~(e)~~~~{(5)}~~ The Commissioner of the Department of Agriculture or the
5 Commissioner's designee;
- 6 ~~(f)~~~~{(6)}~~ The commissioner of the Department of Kentucky State Police or the
7 commissioner's designee;
- 8 ~~(g)~~~~{(7)}~~ The executive director of the Governor's Office of Agricultural Policy or
9 the executive director's designee;
- 10 ~~(h)~~~~{(8)}~~ *The dean of the University of Kentucky College of Agriculture or the*
11 *dean's designee*~~[The chairs of the agriculture departments at the Kentucky~~
12 *university or universities where the industrial hemp research program is to be*
13 *established*];
- 14 ~~(i)~~~~{(9)}~~ *One (1) member representing each of the following institutions*
15 *choosing to participate in the commission:*
- 16 *1. Eastern Kentucky University;*
- 17 *2. Kentucky State University;*
- 18 *3. Morehead State University;*
- 19 *4. Murray State University;*
- 20 *5. Northern Kentucky University;*
- 21 *6. University of Louisville; and*
- 22 *7. Western Kentucky University;*
- 23 ~~(j)~~ The president of the Kentucky Hemp Growers Cooperative Association;
- 24 ~~(k)~~~~{(10)}~~ The president of the Kentucky Sheriffs' Association *or the association*
25 *president's designee;*
- 26 ~~(l)~~~~{(11)}~~ The president of the Kentucky Association of Chiefs of Police *or the*
27 *association president's designee;*~~[and]~~

~~(m)~~~~[(12)]~~ Six (6) members, three (3) appointed by the Speaker of the House and three (3) by the President of the Senate, representing the following interests:

~~1.~~~~[(a)]~~ Kentucky farmers with an interest in growing industrial hemp;

~~2.~~~~[(b)]~~ Retailers of industrial hemp products;

~~3.~~~~[(c)]~~ Wholesalers of industrial hemp products; and

~~4.~~~~[(d)]~~ Manufacturers of industrial hemp products; and

(n) Two (2) at-large members on a recommendation of the chair and approved by a majority of the members of the commission.

(3) (a) Except as provided in paragraph (b) of this subsection, members appointed pursuant to subsections (2)(m) and (2)(n) of this section shall serve a term of four (4) years, and may be reappointed.

(b) The term of office of each member appointed pursuant to subsections (2)(m) and (2)(n) of this section, whom is serving on the commission on the effective date of this Act, shall expire on December 31, 2013. Upon the expiration of a member's term of office pursuant to this paragraph, that position shall be filled by appointment as provided in this section.

➔Section 6. KRS 260.859 is amended to read as follows:

(1) A majority of the members of the commission shall constitute a quorum.

(2) The Commissioner of the Department of Agriculture shall serve as vice chair, and the commission~~[The members]~~ shall elect annually one (1) member from among the remaining members to serve as chair.

➔Section 7. KRS 260.861 is amended to read as follows:

(1) The commission shall meet quarterly and may meet more often upon the call of the chair or by a majority of the members.

(2) The commission shall be appointed and conduct the first meeting by July 1, 2001.

(3) Except as provided in KRS 18A.200, members of the commission shall receive actual traveling expenses while attending meetings of the commission.

(4) Research and development related~~[Staff]~~ services for the commission shall be provided by the University of Kentucky Agricultural Experiment Station. Administrative support services shall be provided to the commission by the Department of Agriculture at the request of the commission, including but not limited to services relating to:

(a) Testing of industrial hemp;

(b) The processing of documents relating to the program of licensure;

(c) Financial accounting and recordkeeping, and other budgetary functions;

and

(d) Meeting coordination and staffing.

(5) Administrative expenses of the commission, including but not limited to expenses for the services outlined in subsection (4) of this section, shall be paid from the industrial hemp program fund established in Section 10 of this Act as approved by the commission.

➔Section 8. KRS 260.863 is amended to read as follows:

~~{(1)-}~~In addition to the report required in Section 4 of this Act, the commission shall~~{~~ develop recommendations on industrial hemp legislation by December 15, 2001, and annually thereafter shall~~}~~ report~~[on the recommendations]~~ to the Governor~~[, the Interim Joint Committee on Agriculture, the Interim Joint Committee on Natural Resources and Environment,]~~ and to the Legislative Research Commission with respect to industrial hemp policies and practices that will result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry. These policies and practices shall, at a minimum, address the following:

(1){(a)} Federal laws and regulatory constraints;

(2){(b)} The economic and financial feasibility of an industrial hemp market in Kentucky;

(3){(c)} Kentucky businesses that utilize industrial hemp;

- 1 ~~(4)(d)~~ Examination of research on industrial hemp production and utilization;
- 2 ~~(5)(e)~~ The potential for globally marketing Kentucky industrial hemp;
- 3 ~~(6)(f)~~ Feasibility study of private funding for the Kentucky industrial hemp research
- 4 program;
- 5 ~~(7)(g)~~ Law enforcement concerns;
- 6 ~~(8)(h)~~ Statutory and regulatory schemes for growing of industrial hemp by private
- 7 producers; and
- 8 ~~(9)(i)~~ Technical support and education about industrial hemp.

9 ~~[(2) The commission shall also continue to monitor the research and development of~~
 10 ~~industrial hemp in the United States and the Kentucky industrial hemp research~~
 11 ~~program.]~~

12 ➔ Section 9. KRS 260.865 is amended to read as follows:

13 (1) Kentucky shall adopt the federal rules and regulations that are currently enacted
 14 regarding industrial hemp and any subsequent changes thereto.

15 (2) Nothing in Sections 1 to 14 of this Act shall be construed to authorize any person
 16 to violate any federal rules or regulations.

17 (3) If any part of Sections 1 to 14 of this Act conflicts with a provision of federal law
 18 relating to industrial hemp that has been adopted in Kentucky under this section,
 19 the federal provision shall control to the extent of the conflict.

20 ➔ Section 10. KRS 260.869 is amended to read as follows:

21 (1) There is established~~and created~~ in the State Treasury a trust and agency fund
 22 entitled the industrial hemp program fund,~~["Industrial Hemp Program Fund"]~~ to
 23 be administered by the commission for the purpose of covering~~provide funds to~~
 24 ~~offset~~ the costs of the commission and the industrial hemp research program, as
 25 approved by the~~and the Kentucky Industrial Hemp~~ commission.

26 (2) The fund may receive state appropriations, gifts, grants, federal funds, and any other
 27 funds both public and private, and shall receive all license application fees and

1 license renewal fees collected by the commission. Money deposited in the fund is
 2 hereby appropriated for purposes set out in this section~~[shall be disbursed by the~~
 3 ~~State Treasurer upon the warrant of the Commissioner of Agriculture or the~~
 4 ~~Commissioner's representative]~~.

5 (3) Notwithstanding KRS 45.229, any unallocated or unencumbered balances in the
 6 fund shall be invested as provided in KRS 42.500(9), and any interest or other
 7 income earned from the investments, along with the unallotted or unencumbered
 8 balances in the fund, shall not lapse but shall be carried forward for purposes of
 9 the fund~~], and shall be deemed a trust and agency account and made available~~
 10 ~~solely for the purposes and benefits of the industrial hemp program]~~.

11 ➔SECTION 11. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED
 12 TO READ AS FOLLOWS:

13 (1) The commission shall establish a program of licensure to allow persons to grow
 14 industrial hemp in the Commonwealth, as provided in this section. The program
 15 shall include the following two (2) separate forms of license:

16 (a) An industrial hemp research program grower license, to allow a person to
 17 grow industrial hemp in this state in a controlled fashion solely and
 18 exclusively as part of the industrial hemp research program overseen by the
 19 commission. This form of licensure shall only be allowed subject to a grant
 20 of necessary permissions, waivers, or other form of valid legal status by the
 21 United States Drug Enforcement Agency or other appropriate federal
 22 agency pursuant to applicable federal laws relating to industrial hemp; and

23 (b) An industrial hemp grower license, to allow a person to grow industrial
 24 hemp in this state for any purpose. This form of licensure shall only be
 25 allowed subject to the authorization of legal industrial hemp growth and
 26 production in the United States under applicable federal laws relating to
 27 industrial hemp.

1 (2) Any person seeking to grow industrial hemp, whether as part of the industrial
2 hemp research program or otherwise, shall apply to the commission for the
3 appropriate license on a form provided by the commission. At a minimum, the
4 application shall include:

5 (a) The name and mailing address of the applicant;

6 (b) The legal description and global positioning coordinates sufficient for
7 locating the production fields to be used to grow industrial hemp. A license
8 shall authorize industrial hemp propagation only on the land areas
9 specified in the license;

10 (c) A signed statement indicating whether the applicant has ever been convicted
11 of a felony or misdemeanor. A person with a prior felony drug conviction
12 within ten (10) years of applying for a license under this section shall not be
13 eligible for the license;

14 (d) Written consent allowing the Department of Kentucky State Police, if a
15 license is ultimately issued to the applicant, to enter onto the premises on
16 which the industrial hemp is grown to conduct physical inspections of
17 industrial hemp planted and grown by the applicant, and to ensure
18 compliance with the requirements of Sections 1 to 14 of this Act. No more
19 than two (2) physical inspections shall be conducted under this paragraph
20 per year, unless a valid search warrant for an inspection has been issued by
21 a court of competent jurisdiction. All testing for THC levels shall be
22 performed as provided in subsection (11) of this section;

23 (e) Any other information required by the commission; and

24 (f) The payment of a nonrefundable application fee, in an amount set by the
25 commission and used to offset the cost of administering the licensure
26 program.

27 (3) The commission shall require a state or national criminal history background

1 check by the Department of Kentucky State Police on all persons applying for
2 licensure. The Department of Kentucky State Police may charge a fee, as
3 established by the commission, to be paid by the applicant for the actual cost of
4 processing the background check. A copy of the results of the background check
5 shall be sent to the commission.

6 (4) All license applications shall be processed as follows:

7 (a) Upon receipt of a license application, the commission shall forward a copy
8 of the application to the Department of Kentucky State Police which shall
9 initiate its review thereof;

10 (b) The Department of Kentucky State Police shall:

11 1. Perform the required state or national criminal history background
12 check of the applicant;

13 2. Approve the application, if it is determined that the requirements
14 relating to prior criminal convictions have been met; and

15 3. Return all applications to the commission together with its findings
16 and a copy of the state or national criminal history background check;
17 and

18 (c) The commission shall review all license applications returned from the
19 Department of Kentucky State Police. If the commission determines that all
20 requirements have been met and that a license should be granted to the
21 applicant, taking into consideration any prior convictions of the applicant,
22 the commission shall approve the application for issuance of a license.

23 (5) In the case of industrial hemp research program grower licenses, the provisions
24 of subsection (4) of this section shall apply, except that the commission may
25 approve licenses for only those selected growers whose demonstration plots will,
26 in the discretion of the commission, advance the goals of the industrial hemp
27 research program to the furthest extent possible based on location, soil type,

1 growing conditions, various varieties of industrial hemp that may be suitable for
2 various hemp products, and other relevant factors. The location, and the total
3 number and acreage, of all demonstration plots to be grown by license holders
4 shall be determined at the discretion of the commission.

5 (6) The number of acres to be planted under each license shall be established by the
6 commission.

7 (7) Each license shall be valid for a period of one (1) year from the date of issuance,
8 and may be renewed in successive years. Each annual renewal shall require the
9 payment of a license renewal fee.

10 (8) The commission shall, by administrative regulation, establish the fee amounts
11 required for license applications and license renewals allowed under this section.
12 All application and license renewal fees collected by the commission shall be
13 deposited in the industrial hemp program fund established in Section 10 of this
14 Act.

15 (9) A copy of, or appropriate electronic record of, each license issued by the
16 commission under this section shall be forwarded immediately to the sheriff of
17 each county where the industrial hemp is licensed to be planted, grown, and
18 harvested.

19 (10) All records, data, and information filed in support of a license application shall
20 be considered proprietary and subject to inspection only upon the order of a court
21 of competent jurisdiction.

22 (11) The commission shall be responsible for monitoring the industrial hemp grown
23 by any license holder, and shall provide for random testing of the industrial hemp
24 for compliance with THC levels and for other appropriate purposes at the cost of
25 the license holder. The commission shall establish necessary testing criteria and
26 protocols through promulgation of administrative regulations pursuant to
27 Section 3 of this Act and in accordance with KRS Chapter 13A.

1 ➔ SECTION 12. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED
2 TO READ AS FOLLOWS:

3 (1) A person shall obtain an industrial hemp grower license pursuant to Section 11
4 of this Act prior to planting or growing any industrial hemp in this state. An
5 industrial hemp grower license holder who has planted and grown industrial
6 hemp pursuant to a valid grower license may sell industrial hemp produced by
7 the grower to any person engaged in agribusiness or other manufacturing for the
8 purpose of processing or manufacturing that industrial hemp into hemp
9 products.

10 (2) A person granted an industrial hemp grower license shall:

11 (a) Maintain records that reflect compliance with Sections 1 to 14 of this Act,
12 and with all other state laws regulating the planting and cultivation of
13 industrial hemp;

14 (b) Retain all industrial hemp production records for at least three (3) years;

15 (c) Allow industrial hemp crops, throughout sowing, growing, and harvesting,
16 to be inspected by and at the discretion of the commission or its designees,
17 and the Department of Kentucky State Police and other law enforcement
18 officers;

19 (d) File with the commission documentation indicating that the industrial
20 hemp seeds planted were of a type and variety certified to have no more
21 THC concentration than that adopted by federal law in the Controlled
22 Substances Act, 21 U.S.C. secs. 801 et seq.;

23 (e) Notify the commission of the sale of any industrial hemp grown under the
24 license and the names and addresses of the persons to whom the industrial
25 hemp was sold; and

26 (f) Provide the commission with copies of any contracts between the licensee
27 and any person to whom industrial hemp was sold.

1 (3) The commission shall assist the grower with his or her compliance with the
2 requirements of this section.

3 (4) Any person licensed to grow industrial hemp under Sections 1 to 14 of this Act
4 may import and resell industrial hemp seed that has been certified as having no
5 more THC concentration than that adopted by federal law in the Controlled
6 Substances Act, 21 U.S.C. secs. 801 et seq.

7 (5) (a) Only industrial hemp grower licensees or their designees or agents shall be
8 permitted to transport industrial hemp off the premises of the licensee.

9 (b) When transporting industrial hemp off the premises of an industrial hemp
10 grower licensee, the licensee or their designee or agent shall carry with
11 them the licensing documents from the commission, evidencing that the
12 industrial hemp was grown by a licensee and is from certified seed.

13 (c) Any industrial hemp that is found in this state at any location off the
14 premises of an industrial hemp grower licensee is deemed to be contraband
15 and subject to seizure by the commission, the Department of Kentucky State
16 Police, or any law enforcement officer, if the person in possession of the
17 industrial hemp does not have in his or her possession either:

18 1. The proper licensing documents, as required by paragraph (b) of this
19 subsection; or

20 2. A bill of lading, or other proper documentation, demonstrating that
21 the industrial hemp was legally imported or is otherwise legally
22 present in this state under applicable state and federal laws relating to
23 industrial hemp.

24 (d) Any industrial hemp seized pursuant to paragraph (c) of this subsection
25 shall be disposed of in accordance with KRS 500.090.

26 ➔SECTION 13. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED

27 TO READ AS FOLLOWS:

(1) An industrial hemp grower licensee who does not comply with the requirements of Sections 1 to 14 of this Act, or the administrative regulations promulgated thereunder, shall have his or her license revoked and shall forfeit the right to grow industrial hemp in this state for a period of up to five (5) years as provided in this section.

(2) A license revocation or forfeiture shall occur pursuant to this section only after the licensee has had an opportunity, upon due notice, for an informal hearing before the chair of the commission, to show cause why the license should not be revoked and the licensee's right to grow forfeited.

(3) The chair of the commission may revoke any license of a person who has pled guilty to, or been convicted of, a felony.

(4) If a license is revoked and a licensee's right to grow is forfeited as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted before the commission in accordance with KRS Chapter 13B.

(5) The licensee may appeal the final order of the commission by filing a petition in the Fayette Circuit Court, or the Circuit Court in which the licensee resides, in accordance with KRS Chapter 13B.

➔SECTION 14. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

Industrial hemp growers licensed under Sections 1 to 14 of this Act may be eligible to receive funds received by the state under the Master Settlement Agreement and placed in the rural development fund established in KRS 248.655.

➔Section 15. KRS 218A.010 is amended to read as follows:
As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or

1 research subject by:

2 (a) A practitioner or by his or her authorized agent under his or her immediate
3 supervision and pursuant to his or her order; or

4 (b) The patient or research subject at the direction and in the presence of the
5 practitioner;

6 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
7 pharmacologically related to testosterone that promotes muscle growth and includes
8 those substances listed in KRS 218A.090(5) but does not include estrogens,
9 progestins, and antisteroids;

10 (3) "Cabinet" means the Cabinet for Health and Family Services;

11 (4) "Child" means any person under the age of majority as specified in KRS 2.015;

12 (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical
13 and geometric isomers, and salts of isomers;

14 (6) "Controlled substance" means methamphetamine, or a drug, substance, or
15 immediate precursor in Schedules I through V and includes a controlled substance
16 analogue;

17 (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this
18 subsection, means a substance:

19 1. The chemical structure of which is substantially similar to the structure
20 of a controlled substance in Schedule I or II; and

21 2. Which has a stimulant, depressant, or hallucinogenic effect on the
22 central nervous system that is substantially similar to or greater than the
23 stimulant, depressant, or hallucinogenic effect on the central nervous
24 system of a controlled substance in Schedule I or II; or

25 3. With respect to a particular person, which such person represents or
26 intends to have a stimulant, depressant, or hallucinogenic effect on the
27 central nervous system that is substantially similar to or greater than the

1 stimulant, depressant, or hallucinogenic effect on the central nervous
2 system of a controlled substance in Schedule I or II.

3 (b) Such term does not include:

- 4 1. Any substance for which there is an approved new drug application;
- 5 2. With respect to a particular person, any substance if an exemption is in
6 effect for investigational use for that person pursuant to federal law to
7 the extent conduct with respect to such substance is pursuant to such
8 exemption; or
- 9 3. Any substance to the extent not intended for human consumption before
10 the exemption described in subparagraph 2. of this paragraph takes
11 effect with respect to that substance;

12 (8) "Counterfeit substance" means a controlled substance which, or the container or
13 labeling of which, without authorization, bears the trademark, trade name, or other
14 identifying mark, imprint, number, or device, or any likeness thereof, of a
15 manufacturer, distributor, or dispenser other than the person who in fact
16 manufactured, distributed, or dispensed the substance;

17 (9) "Dispense" means to deliver a controlled substance to an ultimate user or research
18 subject by or pursuant to the lawful order of a practitioner, including the packaging,
19 labeling, or compounding necessary to prepare the substance for that delivery;

20 (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V
21 controlled substance to or for the use of an ultimate user;

22 (11) "Distribute" means to deliver other than by administering or dispensing a controlled
23 substance;

24 (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of
25 administration available as a single unit;

26 (13) "Drug" means:

27 (a) Substances recognized as drugs in the official United States Pharmacopoeia,

1 official Homeopathic Pharmacopoeia of the United States, or official National
2 Formulary, or any supplement to any of them;

3 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
4 prevention of disease in man or animals;

5 (c) Substances (other than food) intended to affect the structure or any function of
6 the body of man or animals; and

7 (d) Substances intended for use as a component of any article specified in this
8 subsection.

9 It does not include devices or their components, parts, or accessories;

10 (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
11 prosecution only, means an in-person medical examination of the patient conducted
12 by the prescribing practitioner or other health-care professional routinely relied
13 upon in the ordinary course of his or her practice, at which time the patient is
14 physically examined and a medical history of the patient is obtained. "In-person"
15 includes telehealth examinations. This subsection shall not be applicable to hospice
16 providers licensed pursuant to KRS Chapter 216B;

17 (15) "Hazardous chemical substance" includes any chemical substance used or intended
18 for use in the illegal manufacture of a controlled substance as defined in this section
19 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
20 which:

21 (a) Poses an explosion hazard;

22 (b) Poses a fire hazard; or

23 (c) Is poisonous or injurious if handled, swallowed, or inhaled;

24 (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
25 isomers, or salts of isomers;

26 (17) "Immediate precursor" means a substance which is the principal compound
27 commonly used or produced primarily for use, and which is an immediate chemical

1 intermediary used or likely to be used in the manufacture of a controlled substance
2 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
3 manufacture;

4 (18) "Intent to manufacture" means any evidence which demonstrates a person's
5 conscious objective to manufacture a controlled substance or methamphetamine.
6 Such evidence includes but is not limited to statements and a chemical substance's
7 usage, quantity, manner of storage, or proximity to other chemical substances or
8 equipment used to manufacture a controlled substance or methamphetamine;

9 (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and
10 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical,
11 positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer"
12 means the optical or geometric isomer;

13 (20) "Manufacture," except as provided in KRS 218A.1431, means the production,
14 preparation, propagation, compounding, conversion, or processing of a controlled
15 substance, either directly or indirectly by extraction from substances of natural
16 origin or independently by means of chemical synthesis, or by a combination of
17 extraction and chemical synthesis, and includes any packaging or repackaging of the
18 substance or labeling or relabeling of its container except that this term does not
19 include activities:

20 (a) By a practitioner as an incident to his or her administering or dispensing of a
21 controlled substance in the course of his or her professional practice;

22 (b) By a practitioner, or by his or her authorized agent under his supervision, for
23 the purpose of, or as an incident to, research, teaching, or chemical analysis
24 and not for sale; or

25 (c) By a pharmacist as an incident to his or her dispensing of a controlled
26 substance in the course of his or her professional practice;

27 (21) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the

seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. *The term "marijuana" does not include industrial hemp as defined in Section 1 of this Act;*

(22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;

(23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;

(24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;

(25) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;

(26) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

- 1 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
2 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
3 removed;
- 4 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 5 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 6 (g) Any compound, mixture, or preparation which contains any quantity of any of
7 the substances referred to in paragraphs (a) to (f) of this subsection;
- 8 (27) "Opiate" means any substance having an addiction-forming or addiction-sustaining
9 liability similar to morphine or being capable of conversion into a drug having
10 addiction-forming or addiction-sustaining liability. It does not include, unless
11 specifically designated as controlled under KRS 218A.030, the dextrorotatory
12 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
13 include its racemic and levorotatory forms;
- 14 (28) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
15 seeds;
- 16 (29) "Person" means individual, corporation, government or governmental subdivision
17 or agency, business trust, estate, trust, partnership or association, or any other legal
18 entity;
- 19 (30) "Physical injury" has the same meaning it has in KRS 500.080;
- 20 (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 21 (32) "Pharmacist" means a natural person licensed by this state to engage in the practice
22 of the profession of pharmacy;
- 23 (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
24 investigator, optometrist as authorized in KRS 320.240, advanced practice
25 registered nurse as authorized under KRS 314.011, or other person licensed,
26 registered, or otherwise permitted by state or federal law to acquire, distribute,
27 dispense, conduct research with respect to, or to administer a controlled substance

1 in the course of professional practice or research in this state. "Practitioner" also
2 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered
3 nurse authorized under KRS 314.011 who is a resident of and actively practicing in
4 a state other than Kentucky and who is licensed and has prescriptive authority for
5 controlled substances under the professional licensing laws of another state, unless
6 the person's Kentucky license has been revoked, suspended, restricted, or probated,
7 in which case the terms of the Kentucky license shall prevail;

8 (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal
9 prosecution only, means a medical relationship that exists between a patient and a
10 practitioner or the practitioner's designee, after the practitioner or his or her
11 designee has conducted at least one (1) good faith prior examination;

12 (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
13 combination or mixture of drugs or medicines, or proprietary preparation, signed or
14 given or authorized by a medical, dental, chiropody, veterinarian, optometric
15 practitioner, or advanced practice registered nurse, and intended for use in the
16 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
17 animals;

18 (36) "Prescription blank," with reference to a controlled substance, means a document
19 that meets the requirements of KRS 218A.204 and 217.216;

20 (37) "Presumptive probation" means a sentence of probation not to exceed the maximum
21 term specified for the offense, subject to conditions otherwise authorized by law,
22 that is presumed to be the appropriate sentence for certain offenses designated in
23 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That
24 presumption shall only be overcome by a finding on the record by the sentencing
25 court of substantial and compelling reasons why the defendant cannot be safely and
26 effectively supervised in the community, is not amenable to community-based
27 treatment, or poses a significant risk to public safety;

- 1 (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
2 of a controlled substance;
- 3 (39) "Recovery program" means an evidence-based, nonclinical service that assists
4 individuals and families working toward sustained recovery from substance use and
5 other criminal risk factors. This can be done through an array of support programs
6 and services that are delivered through residential and nonresidential means;
- 7 (40) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant
8 presently classified botanically as *Salvia divinorum*, whether growing or not, the
9 seeds thereof, any extract from any part of that plant, and every compound,
10 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
11 extracts, including salts, isomers, and salts of isomers whenever the existence of
12 such salts, isomers, and salts of isomers is possible within the specific chemical
13 designation of that plant, its seeds, or extracts. The term shall not include any other
14 species in the genus *salvia*;
- 15 (41) "Second or subsequent offense" means that for the purposes of this chapter an
16 offense is considered as a second or subsequent offense, if, prior to his or her
17 conviction of the offense, the offender has at any time been convicted under this
18 chapter, or under any statute of the United States, or of any state relating to
19 substances classified as controlled substances or counterfeit substances, except that
20 a prior conviction for a nontrafficking offense shall be treated as a prior offense
21 only when the subsequent offense is a nontrafficking offense. For the purposes of
22 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
23 constitute a conviction under this chapter;
- 24 (42) "Sell" means to dispose of a controlled substance to another person for
25 consideration or in furtherance of commercial distribution;
- 26 (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
- 27 (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is

1 not approved by the United States Food and Drug Administration or, if approved,
2 which is not dispensed or possessed in accordance with state and federal law, that
3 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
4 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
5 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
6 compound in the following structural classes:

7 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
8 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
9 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
10 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
11 substituted in the indole ring to any extent and whether or not substituted in
12 the naphthyl ring to any extent. Examples of this structural class include but
13 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,
14 JWH-122, JWH-200, and AM-2201;

15 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole
16 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
17 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
18 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
19 substituted in the indole ring to any extent and whether or not substituted in
20 the phenyl ring to any extent. Examples of this structural class include but are
21 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

22 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
23 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
24 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
25 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
26 indole ring to any extent and whether or not substituted in the phenyl ring to
27 any extent. Examples of this structural class include but are not limited to

- 1 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- 2 (d) Cyclohexylphenols: Any compound containing a 2-(3-
3 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
4 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
5 cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl
6 group whether or not substituted in the cyclohexyl ring to any extent.
7 Examples of this structural class include but are not limited to CP 47,497 and
8 its C8 homologue (cannabicyclohexanol);
- 9 (e) Naphthylmethylinroles: Any compound containing a 1H-indol-3-yl-(1-
10 naphthyl)methane structure with substitution at the nitrogen atom of the indole
11 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
12 methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl group whether or not
13 further substituted in the indole ring to any extent and whether or not
14 substituted in the naphthyl ring to any extent. Examples of this structural class
15 include but are not limited to JWH-175, JWH-184, and JWH-185;
- 16 (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole
17 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
18 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
19 piperidiny)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
20 substituted in the pyrrole ring to any extent and whether or not substituted in
21 the naphthyl ring to any extent. Examples of this structural class include but
22 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- 23 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
24 naphthylmethyl)indene structure with substitution at the 3-position of the
25 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
26 1-(N-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl group whether
27 or not further substituted in the indene ring to any extent and whether or not

1 substituted in the naphthyl ring to any extent. Examples of this structural class
2 include but are not limited to JWH-176; or

3 (h) Any other synthetic cannabinoid or piperazine which is not approved by the
4 United States Food and Drug Administration or, if approved, which is not
5 dispensed or possessed in accordance with state and federal law;

6 (45) "Synthetic cathinones" means any chemical compound which is not approved by the
7 United States Food and Drug Administration or, if approved, which is not dispensed
8 or possessed in accordance with state and federal law (not including bupropion or
9 compounds listed under a different schedule) structurally derived from 2-
10 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or
11 thiophene ring systems, whether or not the compound is further modified in one (1)
12 or more of the following ways:

13 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
14 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
15 substituted in the ring system by one (1) or more other univalent substituents.
16 Examples of this class include but are not limited to 3,4-
17 Methylenedioxycathinone (bk-MDA);

18 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of
19 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one
20 (buphedrone);

21 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
22 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
23 cyclic structure. Examples of this class include but are not limited to
24 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
25 or

26 (d) Any other synthetic cathinone which is not approved by the United States
27 Food and Drug Administration or, if approved, is not dispensed or possessed

1 in accordance with state or federal law;

2 (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
3 cathinones;

4 (47) "Telehealth" has the same meaning it has in KRS 311.550;

5 (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
6 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
7 substances, derivatives, and their isomers with similar chemical structure and
8 pharmacological activity such as the following:

9 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

10 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

11 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

12 (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
13 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
14 or sell a controlled substance;

15 (50) "Transfer" means to dispose of a controlled substance to another person without
16 consideration and not in furtherance of commercial distribution; and

17 (51) "Ultimate user" means a person who lawfully possesses a controlled substance for
18 his or her own use or for the use of a member of his or her household or for
19 administering to an animal owned by him or her or by a member of his or her
20 household.

21 ➔Section 16. KRS 154.32-010 is amended to read as follows:

22 As used in this subchapter:

23 (1) "Activation date" means the date established in the tax incentive agreement that is
24 within two (2) years of final approval;

25 (2) "Advance disbursement" means the disbursement of incentives prior to the
26 activation date;

27 (3) "Affiliate" has the same meaning as in KRS 154.48-010 and, in addition, shall

1 include two (2) or more limited liability companies if the same persons own more
 2 than fifty percent (50%) of the capital interest or are entitled to more than fifty
 3 percent (50%) of the capital profits in the limited liability companies;

4 (4) "Agribusiness" means the processing of raw agricultural products, including *but not*
 5 *limited to* timber *and industrial hemp*, or the performance of value-added functions
 6 with regard to raw agricultural products;

7 (5) "Approved company" means an eligible company that has received final approval to
 8 receive incentives under this subchapter;

9 (6) "Approved costs" means the amount of eligible costs approved by the authority at
 10 final approval;

11 (7) "Authority" means the Kentucky Economic Development Finance Authority
 12 established by KRS 154.20-010;

13 (8) "Capital lease" means a lease classified as a capital lease by the Statement of
 14 Financial Accounting Standards No. 13, Accounting for Leases, issued by the
 15 Financial Accounting Standards Board, November 1976, as amended;

16 (9) "Commonwealth" means the Commonwealth of Kentucky;

17 (10) "Confirmed approved costs" means:

18 (a) For owned economic development projects, the documented eligible costs
 19 incurred on or before the activation date; or

20 (b) For leased economic development projects:

21 1. The documented eligible costs incurred on or before the activation date;
 22 and

23 2. Estimated rent to be incurred by the approved company throughout the
 24 term of the tax incentive agreement.

25 For both owned and leased economic development projects, "confirmed approved
 26 costs" may be less than approved costs, but shall not be more than approved costs;

27 (11) "Department" means the Department of Revenue;

- 1 (12) "Economic development project" means:
- 2 (a) 1. The acquisition, leasing, or construction of a new facility; or
- 3 2. The acquisition, leasing, rehabilitation, or expansion of an existing
- 4 facility; and
- 5 (b) The installation and equipping of the facility;
- 6 by an eligible company. "Economic development project" does not include any
- 7 economic development project that will result in the replacement of facilities
- 8 existing in the Commonwealth, except as provided in KRS 154.32-060;
- 9 (13) (a) "Eligible company" means any corporation, limited liability company,
- 10 partnership, limited partnership, sole proprietorship, business trust, or any
- 11 other entity with a proposed economic development project that is engaged in
- 12 or is planning to be engaged in one (1) or more of the following activities
- 13 within the Commonwealth:
- 14 1. Manufacturing;
- 15 2. Agribusiness;
- 16 3. Nonretail service or technology; or
- 17 4. National or regional headquarters operations, regardless of the
- 18 underlying business activity of the company.
- 19 (b) "Eligible company" does not include companies where the primary activity to
- 20 be conducted within the Commonwealth is forestry, fishing, mining, coal or
- 21 mineral processing, the provision of utilities, construction, wholesale trade,
- 22 retail trade, real estate, rental and leasing, educational services,
- 23 accommodation and food services, or public administration services;
- 24 (14) "Eligible costs" means:
- 25 (a) For owned economic development projects:
- 26 1. Start-up costs;
- 27 2. Obligations incurred for labor and amounts paid to contractors,

1 subcontractors, builders, and materialmen in connection with the
2 economic development project;

3 3. The cost of acquiring land or rights in land and any cost incidental
4 thereto, including recording fees;

5 4. The cost of contract bonds and of insurance of all kinds that may be
6 required or necessary for completion of an economic development
7 project which is not paid by a contractor or otherwise provided for;

8 5. All costs of architectural and engineering services, including test
9 borings, surveys, estimated plans and specifications, preliminary
10 investigations, and supervision of construction, as well as for the
11 performance of all the duties required for construction of the economic
12 development project;

13 6. All costs which are required to be paid under the terms of any contract
14 for the economic development project;

15 7. All costs incurred for construction activities, including site tests and
16 inspections; subsurface site work; excavation; removal of structures,
17 roadways, cemeteries, and other surface obstructions; filling, grading,
18 and providing drainage and storm water retention; installation of utilities
19 such as water, sewer, sewage treatment, gas, electric, communications,
20 and similar facilities; off-site construction of utility extensions to the
21 boundaries of the real estate; construction and installation of railroad
22 spurs as needed to connect the economic development project to existing
23 railways; or similar activities as the authority may determine necessary
24 for construction of the economic development project; and

25 8. All other costs of a nature comparable to those described above; and

26 (b) For leased economic development projects:

27 1. Start-up costs; and

1 2. Fifty percent (50%) of the estimated annual rent for each year of the tax
2 incentive agreement.

3 Notwithstanding any other provision of this subsection, for economic development
4 projects that are not in enhanced incentive counties, the cost of equipment eligible
5 for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000)
6 for each new full-time job created as of the activation date;

7 (15) "Employee benefits" means nonmandated payments by an approved company for its
8 full-time employees for health insurance, life insurance, dental insurance, vision
9 insurance, defined benefits, 401(k), or similar plans;

10 (16) "Enhanced incentive counties" means counties certified by the authority pursuant to
11 KRS 154.32-050;

12 (17) "Final approval" means the action taken by the authority authorizing the eligible
13 company to receive incentives under this subchapter;

14 (18) "Full-time job" means a job held by a person who:

15 (a) Is a Kentucky resident subject to the Kentucky individual income tax imposed
16 by KRS 141.020; and

17 (b) Is required to work a minimum of thirty-five (35) hours per week;

18 (19) "Incentives" means the incentives available under this subchapter, as listed in KRS
19 154.32-020(3);

20 (20) "Job target" means the annual average number of new full-time jobs that the
21 approved company commits to create and maintain at the economic development
22 project, which shall not be less than ten (10) new full-time jobs;

23 (21) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

24 (22) "Kentucky gross profits" has the same meaning as in KRS 141.0401;

25 (23) "Lease agreement" means an agreement between an approved company and an
26 unrelated entity conveying the right to use property, plant, or equipment, the terms
27 of which reflect an arms' length transaction. "Lease agreement" does not include a

1 capital lease;

2 (24) "Leased project" means an economic development project site occupied by an
3 approved company pursuant to a lease agreement;

4 (25) "Loan agreement" means the agreement between the authority and a preliminarily
5 approved company establishing the terms and conditions of an advance
6 disbursement;

7 (26) "Manufacturing" means any activity involving the processing, assembling, or
8 production of any property, including the processing resulting in a change in the
9 conditions of the property and any activity related to the processing, assembling, or
10 production of property. "Manufacturing" also includes storage, warehousing,
11 distribution, and office activities related to the manufacturing activity;

12 (27) "Minimum wage target" means the average minimum wage amount that the
13 approved company commits to meet for all new full-time jobs created and
14 maintained as a result of the economic development project, which shall not be less
15 than:

16 (a) One hundred twenty-five percent (125%) of the federal minimum wage in
17 enhanced incentive counties; or

18 (b) One hundred fifty percent (150%) of the federal minimum wage in all other
19 counties;

20 (28) (a) "Nonretail service or technology" means any activity where:

21 1. Service or technology is:

22 a. Provided predominantly outside the Commonwealth; and

23 b. Designed to serve a multistate, national, or international market; or

24 2. Service or technology is provided by a national or regional headquarters
25 as a support to other business activities conducted by the eligible
26 company.

27 (b) "Nonretail service or technology" includes but is not limited to call centers,

1 centralized administrative or processing centers, telephone or Internet sales
2 order or processing centers, distribution or fulfillment centers, data processing
3 centers, research and development facilities, and other similar activities;

4 (29) "Owned project" means an economic development project owned in fee simple by
5 the approved company or an affiliate, or possessed by the approved company or an
6 affiliate pursuant to a capital lease;

7 (30) "Preliminary approval" means the action taken by the authority preliminarily
8 approving an eligible company for incentives under this subchapter;

9 (31) "Rent" means the actual annual rent or fee paid by an approved company under a
10 lease agreement;

11 (32) "Start-up costs" means costs incurred to furnish and equip a facility for an economic
12 development project, including costs incurred for:

13 (a) Computers, furnishings, office equipment, manufacturing equipment, and
14 fixtures;

15 (b) The relocation of out-of-state equipment; and

16 (c) Nonrecurring costs of fixed telecommunications equipment;


17 as certified to the authority in accordance with KRS 154.32-030;

18 (33) "Tax incentive agreement" means the agreement entered into pursuant to KRS
19 154.32-040 between the authority and an approved company; and

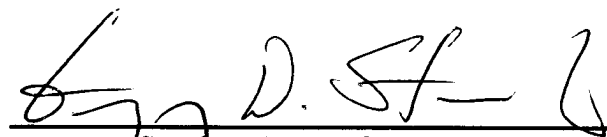
20 (34) "Term" means the period of time for which a tax incentive agreement may be in
21 effect, which shall not exceed fifteen (15) years for an economic development
22 project located in an enhanced incentive county, or ten (10) years for an economic
23 development project not located in any other county.

24 ➔Section 17. The Cabinet for Economic Development shall work in conjunction
25 with the Industrial Hemp Commission to promote the development of industrial hemp
26 production in the Commonwealth, and the commercialization of hemp products in
27 agribusiness, alternative fuel production, and other business sectors, to the greatest extent

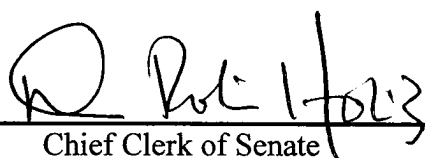
1 possible. The Cabinet shall promote the availability of financial incentives offered by
2 state government for the processing and manufacture of industrial hemp into hemp
3 products in the Commonwealth, including but not limited to incentives offered through
4 the Kentucky Business Investment program, to any interested parties both within and
5 without this state.



President of Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved _____
Governor

Date _____